

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Complaint of Metricom, Inc.	)	
Pursuant to G.L. c. 166, § 25A and	)	
220 C.M.R. § 45.00, et seq., Regarding	)	D.T.E. 01-40
Access to Poles Owned or Controlled )	)	
By Boston Edison Company	)	
_____	)	

**PETITION OF CONCORD MUNICIPAL LIGHT PLANT**  
**TO INTERVENE OUT OF TIME**

Pursuant to 220 C.M.R. 1.01(4) and 1.03, the Concord Municipal Light Plant (“Concord”) hereby petitions the Department of Telecommunications and Energy (“DTE”) for leave to intervene out of time in the above-captioned proceeding, or in the alternative, for limited participant status. In support of its petition, Concord states as follows:

1. Concord is a municipal light department with a principal place of business at 1175 Elm Street, P.O. Box 1029, Concord, Massachusetts.

1. Concord, like the Massachusetts Municipal Light Plants that have intervened in these proceedings, is subject to the provisions of G.L. c. 166, § 25A and 220 C.M.R. 45.00 et. seq.

2. Concord, like the Massachusetts Municipal Light Plants, has been approached by Metricom, Inc. (“Metricom”) in connection with Metricom’s proposal to attach its “Ricochet” radios to street light arm brackets and light poles owned by the Massachusetts Municipal Light Plants. Concord denied Metricom’s request because Metricom is not a “licensee” under G.L. c. 166 § 25A and because Metricom’s facilities are not “attachments” within the meaning of the law. (See October 16, 2000 letter from Concord Municipal Light Plant to Metricom, attached hereto.) Not a single Massachusetts

Municipal Light Plant intervenor, including Concord, has been able to reach a mutually acceptable agreement with Metricom regarding the placement of radios on their streetlights or light poles.

3. As set forth in the Hearing Officer's Ruling on Petitions to Intervene in this matter, dated June 6, 2001, the Massachusetts Municipal Light Plants are "substantially and specifically affected by this proceeding" because this case is one of first impression and will involve policy matters with precedential value. See Metricom, Hearing Officer Ruling, (June 6, 2001) at p. 4.

4. Concord hereby adopts the position of the Massachusetts Municipal Light Plants as set forth specifically in paragraphs 13 through 19 of their Petition to Intervene filed in this proceeding.

5. Concord, as with all of the Massachusetts Municipal Light Plant intervenors, will be substantially impacted by a decision by the Department in this matter, specifically with regard to how the Department interprets the terms "licensee" and "attachment," and whether the Department decides to extend the protections of G.L. c. 166, § 25A to service providers other than telecommunications or CATV service.

6. Accordingly, because of Concord's relationship with Metricom, its ownership of poles, the requests it has received for attachments, and, as a local entity with working relationships with the municipal governing bodies, no other can adequately represent Concord's interests.

7. Because the proceedings in this matter are already underway, Concord will adopt the positions expressed by the Massachusetts Municipal Light Plant intervenors in pleadings and at hearings to date, and takes the case as it finds it.

8. Concord's intervention will not cause delay or add in any way to the existing procedural schedule. Concord agrees to accept the record and procedural schedule as it presently exists.

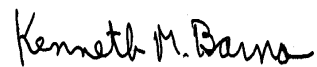
Concord further agrees to limit its intervention to filing of briefs and memoranda related to outstanding discovery.

9. In the alternative, Concord seeks limited participant status in this proceeding, and where appropriate, to submit briefs and to participate in this proceeding in any other manner deemed appropriate for limited participants by the Hearing Officer.

Respectfully submitted,

CONCORD MUNICIPAL LIGHT PLANT

by its Counsel,



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